

RWS-32/425

Remarks:

Reconsideration of the application is requested.

Claims 1-9 remain in the application. Claims 1-9 have been amended to use proper U.S. claim format and wording.

In the first paragraph on page 2 of the above-identified Office action, the Examiner stated that the declaration is defective because it does not include the inventors' signatures. In a telephone conversation with the Examiner on September 10, 2003 the Examiner was made aware that the signed declaration was filed on May 23, 2003. Furthermore, the PTO charged the declaration fee in the amount of \$130 to our AMEX account on June 7, 2002. Therefore, the declaration is not defective.

In item 2 on page 2 of the Office action, claim 7 has been rejected as being indefinite under 35 U.S.C. § 112.

More specifically, the Examiner has stated that there is insufficient antecedent basis for the limitation "the double cutting tool" in the last line of claim 7. The claim has been amended so as to facilitate prosecution of the application, and is now dependent on claim 6. Therefore, the rejection has been overcome.

RWS-32/425

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic or clarificatory reasons. The changes are not provided for overcoming the prior art nor for any reason related to the statutory requirements for a patent.

In item 4 on page 3 of the Office action, claims 1, 4-7, and 9 have been rejected as being fully anticipated by Foldesi (U.S. Patent No. 4,682,463) under 35 U.S.C. § 102.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and the claims have, therefore, not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

The present invention is an apparatus for transferring membranes in a continuously operable sealing carrousel for heat-sealing of can-like packaging. A rotatable transfer

RWS-32/425

station is located upstream of the sealing carrousel. The state of the art presented in the instant application already assumes a rotatable transfer station for the membranes, which are to be transferred. The membranes to be transferred are taken over from a storage station (i.e. a membrane magazine).

The new features of the instant application are that the membrane transfer station, which is disposed upstream of the sealing carrousel, is provided as a clocked drivable membrane star (10) and that a cutting tool (11) is provided above the membrane star (10) for processing a membrane strip (12).

Moreover, the transfer of the membranes (13) to the membrane star (10) takes place during a resting phase of the membrane star (10), while the transfer of the membranes (13) from the membrane star (10) to the sealing carrousel (15) occurs during a movement phase of the membrane star (10).

Furthermore, claim 1 calls for, *inter alia*:

a cutting tool for membrane-strip processing is provided above the membrane star, it being possible for transfer of cut-out membranes from the membrane strip to the membrane star to be effected during the resting phases of the membrane star and for advancement of membranes positioned on the membrane star

RWS-32/425

to the sealing carrousel to be effected during the movement phases of the membrane star.

The Foldesi reference discloses an apparatus for forming and attaching a flexible foil sealing disk. The apparatus includes a rotating feed wheel (110), a sealing head (134), and a disk punch assembly (124). The disk punch assembly (124) transfers a sealing disk (22) to the rotating feed wheel (110) during a dwell period of the rotating feed wheel (110). Since Foldesi only discloses one sealing head (134) and no sealing carrousel, the transfer of the sealing disk (22) to the sealing head (134) can only occur during a dwell period. Foldesi discloses that containers (28) are moved to the sealing head (134) during the dwell period and also during this dwell period the sealing disks (22) are supplied to and sealed to the container (28) at the sealing head (134). Likewise in Fig. 8, Foldesi discloses a three-out apparatus, in which the containers (28) are supplied to the star wheel assembly (180) during a dwell period and the containers (28) are supplied with and sealed in a sealing station (186) during the dwell period of the star wheel assembly (180).

The reference does not show a cutting tool for membrane-strip processing provided above the membrane star, in which it is possible for transfer of cut-out membranes from the membrane strip to the membrane star to be effected during the resting

RWS-32/425

phases of the membrane star and for advancement of membranes positioned on the membrane star to the sealing carrousel to be effected during the movement phases of the membrane star, as recited in claim 1 of the instant application. Foldesi discloses that the sealing operation occurs in the rotating feed wheel. Therefore, the sealing disks are supplied to the sealing station during a dwell period of the rotating feed wheel and the containers are sealed during a dwell period of the rotating feed wheel. This is contrary to the invention of the instant application as claimed, in which a cutting tool for membrane-strip processing is provided above the membrane star and the transfer of cut-out membranes from the membrane strip to the membrane star takes place during the resting phases of the membrane star and that the membranes positioned on the membrane star are advanced to the sealing carrousel during movement phases of the membrane star.

In item 5 on page 3 of the Office action, claims 1-4 and 8-9 have been rejected as being fully anticipated by Foldesi et al. (U.S Patent No. 5,522,200) under 35 U.S.C. § 102.

The Foldesi et al. reference discloses a continuous motion sealer, which includes a heater head (51) and a punch and die (Figs. 3 and 4, not numbered). The punch and die deliver the individual seals directly to the individual heater heads (51) (column 3, lines 35-43). The Foldesi et al. reference

RWS-32/425

discloses that the prior art includes Fig. 7, which describes the disadvantages of the prior art, which are described as follows. The seal is taken over by the heater head (83), where each heater head (83) momentarily stops. However, the pocket wheel and pivot point (86) continues to move in a rotary fashion. An error "A" is disclosed in which the heater head (83) does not remain on the rotary path of the pocket wheel during this action (column 3, lines 44-64).

The Foldesi et al. reference discloses the following correction of the shift "A". Figs 2 and 8. teach that during the taking over of the membrane, the heater head (51) is guided on the circular guide track (54) and moves freely on the supporting rollers (52 and 53), while the heater head (51) is briefly stopped by the fixed cam (45) via the swivel block (46) via the cam follower (47) which engages the fork (55). This is contrary to the invention of the instant application as claimed, in which the membrane star 10 transports the cutout membrane 13 from the membrane strip 12 to the sealing carrousel 20. Therefore, in the present invention a standstill of the vacuum stations 20 of the sealing heads 18 does not occur during the transfer of the membranes 13.

The reference does not show a cutting tool for membrane-strip processing provided above the membrane star, in which it is possible for transfer of cut-out membranes from the membrane

RWS-32/425

strip to the membrane star to be effected during the resting phases of the membrane star and for advancement of membranes positioned on the membrane star to the sealing carrousel to be effected during the movement phases of the membrane star, as recited in claim 1 of the instant application. Foldesi et al. disclose that the punch and die delivers the individual seals directly to the individual heater heads (51). The Foldesi et al. reference does not disclose a membrane star. Therefore, the punch and die does not transfer a membrane to a membrane star. This is contrary to the invention of the instant application as claimed, in which a cutting tool for membrane-strip processing is provided above the membrane star and the transfer of cut-out membranes from the membrane strip to the membrane star takes place during the resting phases of the membrane star and that the membranes positioned on the membrane star are advanced to the sealing carrousel during movement phases of the membrane star.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claim 1, they are believed to be patentable as well.

RWS-32/425

In view of the foregoing, reconsideration and allowance of claims 1-9 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner & Greenberg P.A., No. 12-1099.

Respectfully submitted,



For Applicant(s)

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